



# HOUSE BILL 828: Update Physical Therapy Practice Act

2013-2014 General Assembly

<b>Committee:</b>	Senate Judiciary I	<b>Date:</b>	June 27, 2013
<b>Introduced by:</b>	Reps. Fulghum, Hollo, Faircloth, Murry	<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	PCS to Third Edition H828-CSSA-58		Committee Counsel

**SUMMARY:** *House Bill 828 would amend the Physical Therapy Practice Act to authorize the Board to remove Board members for causes listed, to conduct confidential investigations, to request the Department of Justice provide criminal background checks in connection with licensure, to issue subpoenas, to establish programs for helping with recovery and rehabilitation of licensees who have chemical or alcohol addictions or mental health problems, and to acquire, hold, and dispose of real property subject only to the approval of the Governor and the Council of State. House Bill 828 would also authorize licensure of foreign-trained physical therapy assistants and temporarily allow the practice of physical therapy without licensure in this State during natural disasters, athletic competitions, and performing arts exhibitions.*

*House Bill 828 would authorize the Department of Justice to charge the applicant a fee to offset the cost incurred to conduct a criminal history record check. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.*

*The PCS makes changes to the criminal history check portions of the bill to comply with the requirements for access to the FBI criminal history database.*

**CURRENT LAW:** The practice of physical therapy is governed by Article 18B of Chapter 90 of the General Statutes.

**BILL ANALYSIS:** Section 1 of the bill amends G.S. 90-270.25 which establishes the NC Board of Physical Therapy Examiners. The amendment authorizes the Board to immediately remove a member of the Board if the member is found to have:

- Ceased to meet the qualification specified for the Board.
- Failed to attend 3 consecutive Board meetings without just cause.
- Violated any provision of the physical therapy practice act or rules.
- Engaged in immoral, dishonorable, unprofessional, or unethical conduct.

Where the Board seeks to remove a person for unprofessional conduct, the Board must further find that the conduct has compromised the integrity of the Board.

**Section 2** of the bill amends G.S. 90-270.26 setting out the powers of the Board. The Board is given specific authority to conduct confidential investigations. Records from such investigations are not public records, are privileged and not subject to discovery, subpoena or legal compulsion for release. Board decisions, hearing notices, statements of charges, and material admitted into evidence are public records, provided that identifying information concerning the treatment of a patient who has not consented to public disclosure may be deleted or redacted.

Section 2 also authorizes the Board to:

- Request the Department of Justice provide criminal background checks for licensure.



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- Issue subpoenas.
- Establish or participate in programs for recovery and rehab of persons with drug or alcohol issues or mental health problems.
- Acquire, hold, and dispose of real property in the same manner as a private person or corporation, subject only to approval of the Governor and Council of State. Collateral that may be pledged for such property is limited to the assets, income, and revenues of the Board.

**Section 3** adds new G.S. 90-270.29A, requiring all applicants for licensure to consent to a criminal history record check. Refusal to consent to the check constitutes grounds for the Board to deny licensure. All information obtained by the Board shall be kept confidential. The cost of the record check will be borne by the applicant. A conviction shall not automatically bar licensure. In making a decision, the Board shall consider the seriousness of the crime, the date, the person's age at the time of the offense, the surrounding circumstances, the nexus between the criminal conduct and the job duties of the position to be filled, and the person's prison, parole, rehabilitation, and employment record since the crime was committed.

The Board may disclose to the applicant information contained in the criminal history record if the disclosure is permitted by applicable State and federal law, but shall not provide a copy of the record itself. The applicant shall have the right to appear before the Board to appeal the decision, but an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B. The Board and employees acting in good faith are immune from civil liability for denying licensure based on information in the criminal history record.

**Section 4** amends G.S. 90-270.30 that currently authorizes licensure of foreign-trained physical therapists under certain circumstances to also allow licensure of foreign-trained physical therapy assistants.

**Section 5** provides for persons licensed in another jurisdiction of the US to be allowed to practice physical therapy or assist in that practice without obtaining a North Carolina license:

- If the person is, by contract or employment, providing physical therapy to individuals affiliated with or employed by established athletic teams, athletic organizations, or performing arts companies, temporarily practicing, competing, or performing in the State for no more than 60 days per calendar year. This exemption applies also to those credentialed in other countries.
- If the person is providing physical therapy during a declared local, State, or national disaster or emergency. The licensee shall notify the Board of their intent to practice in the State. The exemption extends no longer than the standard annual renewal time in the State.
- If the person has been forced to leave their residence or place of employment because of a declared local, State, or national disaster or emergency, and due to the displacement needs to practice physical therapy. The licensee shall notify the Board of their intent to practice in the State. The exemption extends no longer than the standard annual renewal time in the State but may be renewed by the Board for additional periods.

**Section 6** adds a new section to Article 4 of Chapter 114 of the General Statutes authorizing the Department of Justice to provide the Board of Physical Therapy criminal history records for applicants for licensure by the Board. The Department may charge a fee to offset the cost to conduct the check. The fee shall not exceed the actual cost of obtaining the information.

**EFFECTIVE DATE:** This act becomes effective October 1, 2013.

*Barbara Riley, counsel to House Health and Human Services, substantially contributed to this summary.*